

House File 583 - Introduced

HOUSE FILE 583

BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO HF 425)

A BILL FOR

1 An Act relating to the control of effluent from animal truck
2 wash facilities, by requiring certain permits, regulating
3 storage and application of effluent, and making penalties
4 applicable.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 459A.101, Code 2015, is amended to read
2 as follows:

3 **459A.101 Title.**

4 This chapter shall be known and may be cited as the
5 *"Animal Agriculture Compliance Act for Open Feedlot Operations"*
6 *Operations and Animal Truck Wash Facilities*".

7 Sec. 2. Section 459A.102, Code 2015, is amended by adding
8 the following new subsections:

9 NEW SUBSECTION. 3A. *"Animal truck wash effluent"* means
10 a combination of manure, washwater-induced runoff, or other
11 runoff derived from an animal truck wash facility before its
12 solids have been removed.

13 NEW SUBSECTION. 3B. *"Animal truck wash effluent basin"*
14 means an impoundment which is part of an animal truck wash
15 facility, if the primary function of the impoundment is to
16 collect and store animal truck wash effluent. *"Animal truck
17 wash effluent basin"* does not include a storage structure as
18 defined in section 459.102.

19 NEW SUBSECTION. 3C. *"Animal truck wash facility"*
20 means an operation engaged in washing single-unit trucks,
21 truck-tractors, semitrailers, or trailers used to transport
22 animals.

23 NEW SUBSECTION. 6A. *"Basin"* means any of the following:
24 a. A settled open feedlot effluent basin.
25 b. An animal truck wash effluent basin.

26 NEW SUBSECTION. 7A. *"Concentrated animal feeding operation"*
27 means the same as defined in 40 C.F.R. §122.23.

28 NEW SUBSECTION. 7B. *"Confinement feeding operation"* means
29 the same as defined in section 459.102.

30 NEW SUBSECTION. 11A. *"Effluent"* means open feedlot effluent
31 or animal truck wash effluent.

32 NEW SUBSECTION. 11B. *"Federal Water Pollution Control Act"*,
33 means the federal Water Pollution Control Act of 1972, 33
34 U.S.C. ch. 26, as amended, and 40 C.F.R., pts. 122 and 412.

35 NEW SUBSECTION. 11C. *"Formed animal truck wash effluent"*

1 *basin* means a covered or uncovered impoundment used to store
2 effluent from an animal truck wash facility, which has walls
3 and a floor constructed of concrete, concrete block, wood,
4 steel, or similar materials.

5 NEW SUBSECTION. 13A. "*Manure storage structure*" means the
6 same as defined in section 459.102.

7 NEW SUBSECTION. 13B. "*NPDES permit*" means a permit issued
8 by the department under the national pollutant discharge
9 elimination system pursuant to the federal Water Pollution
10 Control Act of 1972, 33 U.S.C. ch. 26, as amended, and 40
11 C.F.R. pts. 122 and 412.

12 NEW SUBSECTION. 19A. "*Owner*" means a person who holds legal
13 or equitable title to any of the following:

14 a. The property where an open feedlot operation or animal
15 truck wash facility is located.

16 b. An open feedlot operation structure which is part of an
17 open feedlot operation or an animal truck wash effluent basin
18 which is part of an animal truck wash facility.

19 NEW SUBSECTION. 19B. "*Professional engineer*" means the same
20 as defined in section 459.102.

21 NEW SUBSECTION. 23A. "*Small animal truck wash facility*"
22 means an animal truck wash facility, if all of the following
23 apply:

24 a. The animal truck wash facility and all single-unit
25 trucks, truck-tractors, semitrailers, or trailers that are
26 washed at the facility are owned by the same person.

27 b. The average total per day volume of washwater used by the
28 animal truck wash facility does not exceed two thousand gallons
29 as calculated on a monthly basis.

30 NEW SUBSECTION. 23B. a. "*Solids*" means that portion of
31 effluent that meets all of the following requirements:

32 (1) Does not flow perceptibly under pressure.

33 (2) Is not capable of being transported through a mechanical
34 pumping device designed to move a liquid.

35 (3) The constituent molecules do not flow freely among

1 themselves but do show the tendency to separate under stress.

2 *b. "Solids"* includes settleable solids and scraped solids.

3 NEW SUBSECTION. 25A. "*Structure*" means any of the
4 following:

5 *a.* An open feedlot operation structure.

6 *b.* An animal truck wash effluent basin.

7 NEW SUBSECTION. 25B. "*Unformed animal truck wash effluent*
8 *basin*" means a covered or uncovered impoundment used to store
9 animal truck wash effluent, other than a formed animal truck
10 wash effluent basin.

11 Sec. 3. Section 459A.102, subsections 14, 16, 23, and 25,
12 Code 2015, are amended to read as follows:

13 14. "*Nutrient management plan*" or "*plan*" means a plan which
14 provides for the management of open feedlot effluent, or animal
15 truck wash effluent, including the application of effluent as
16 provided in section 459A.208.

17 16. "*Open feedlot effluent*" ~~or "*effluent*"~~ means a
18 combination of manure, precipitation-induced runoff, or other
19 runoff from an open feedlot before its settleable solids have
20 been removed.

21 23. "*Settled open feedlot effluent basin*" ~~or "*basin*"~~ means
22 an impoundment which is part of an open feedlot operation, if
23 the primary function of the impoundment is to collect and store
24 settled open feedlot effluent.

25 25. "*Stockpile*" means to store solids from ~~an~~ any of the
26 following:

27 *a.* An open feedlot operation outside of an open feedlot
28 operation structure, or outside of an area that drains to an
29 open feedlot operation structure.

30 *b.* An animal truck wash facility, outside an animal truck
31 wash facility, or outside an area that drains to an animal
32 truck wash facility.

33 Sec. 4. Section 459A.102, subsections 19 and 21, Code 2015,
34 are amended by striking the subsections.

35 Sec. 5. Section 459A.103, subsection 3, paragraph b, Code

1 2015, is amended to read as follows:

2 *b.* Notwithstanding paragraph “*a*”, only for purposes of
3 determining whether an open feedlot operation must obtain ~~an~~
4 ~~operating a~~ NPDES permit, the animal unit capacity of the
5 animal feeding operation includes the animal unit capacities
6 of both the open feedlot operation and the confinement feeding
7 operation if the animals in the open feedlot operation and the
8 confinement feeding operation are all in the same category or
9 type of animals as used in the definitions of large and medium
10 concentrated animal feeding operations in 40 C.F.R. pt. 122.
11 In all other respects the confinement feeding operation shall
12 be governed by chapter 459 and the open feedlot operation shall
13 be governed by this chapter.

14 Sec. 6. Section 459A.103, subsection 6, Code 2015, is
15 amended to read as follows:

16 6. The regulation of ~~open feedlot~~ effluent under this
17 chapter shall be construed as also regulating ~~settled open~~
18 ~~feedlot~~ effluent and solids.

19 Sec. 7. Section 459A.104, Code 2015, is amended to read as
20 follows:

21 **459A.104 General authority — commission and department —**
22 **purpose — compliance.**

23 1. The commission shall establish by rule adopted pursuant
24 to chapter 17A, requirements relating to the construction,
25 including expansion, or operation of ~~open~~ all of the following:

26 *a.* Open feedlot operations, including any related open
27 feedlot operation structures.

28 *b.* Animal truck wash facilities, including any related
29 animal truck wash effluent basins.

30 2. Any provision referring generally to compliance with
31 the requirements of this chapter as applied to open feedlot
32 operations or animal truck wash facilities also includes
33 compliance with requirements in rules adopted by the commission
34 pursuant to this section, orders issued by the department as
35 authorized under this chapter, and the terms and conditions

1 applicable to licenses, certifications, permits, or nutrient
2 management plans required under this chapter.

3 3. a. The purpose of this chapter is to provide
4 requirements relating to the construction, including the
5 expansion, and operation of ~~open~~ all of the following:

6 (1) Open feedlot operations, and the control of open feedlot
7 effluent, which.

8 (2) Animal truck wash facilities, and the control of animal
9 truck wash effluent.

10 b. The provisions of this chapter shall be construed to
11 supplement applicable provisions of chapter 459. If there is
12 a conflict between the provisions of this chapter and chapter
13 459, the provisions of this chapter shall prevail.

14 Sec. 8. Section 459A.105, Code 2015, is amended to read as
15 follows:

16 **459A.105 Exception to regulation.**

17 1. a. Except as provided in ~~subsection 2~~ paragraph
18 "b", the requirements of this chapter which regulate open
19 feedlot operations, including rules adopted by the ~~department~~
20 commission pursuant to section 459A.104, shall not apply
21 to research activities and experiments performed under the
22 authority and regulations of a research college, if the
23 research activities and experiments relate to an open feedlot
24 operation structure or the disposal or treatment of effluent
25 originating from an open feedlot operation.

26 ~~2-~~ b. The requirements of section 459A.410, including rules
27 adopted by the ~~department~~ commission under that section, apply
28 to research activities and experiments performed under the
29 authority and regulations of a research college.

30 2. a. Except as provided in paragraph "b", the requirements
31 of this chapter, including rules adopted by the commission
32 pursuant to section 459A.104, shall not apply to a small animal
33 truck wash facility.

34 b. The requirements of section 459A.205, subsection 4A,
35 paragraph "c", and sections 459A.404 and 459A.410, including

1 rules adopted by the commission under those provisions, apply
2 to a small animal truck wash facility.

3 Sec. 9. Section 459A.201, subsection 3, paragraph b, Code
4 2015, is amended to read as follows:

5 b. (1) A nutrient management plan as provided in section
6 459A.208 shall be approved or disapproved as part of a
7 construction permit application pursuant to section 459A.205.

8 (2) If For an open feedlot operation, if the nutrient
9 management plan is not part of an application for a
10 construction permit, the nutrient management plan shall be
11 approved or disapproved within sixty days from the date that
12 the department receives the nutrient management plan.

13 Sec. 10. Section 459A.205, subsection 1, Code 2015, is
14 amended to read as follows:

15 1. a. The department shall approve or disapprove
16 applications for permits for the construction, including the
17 expansion, of ~~settled~~ the following structures:

18 (1) Settled open feedlot effluent basins and alternative
19 technology systems, which are part of open feedlot operations
20 as provided in this chapter.

21 (2) Animal truck wash effluent basins which are part of
22 animal truck wash facilities as provided in this chapter.

23 b. The department's decision to approve or disapprove
24 a permit for the construction of a ~~basin or alternative~~
25 ~~system~~ structure described in paragraph "a" shall be based on
26 whether the application is submitted according to procedures
27 and standards required by this chapter. A person shall not
28 begin construction of a ~~basin or alternative system requiring~~
29 ~~a permit~~ such a structure under this section, unless the
30 department first approves the person's application and issues
31 to the person a construction permit.

32 Sec. 11. Section 459A.205, subsection 3, Code 2015, is
33 amended to read as follows:

34 3. ~~The department shall not approve an~~ An application for a
35 construction permit ~~unless the applicant submits~~ shall include

1 all of the following:

2 ~~a. For an open feedlot operation submitting an application~~
3 ~~for a construction permit on or after April 30, 2007, a~~ A
4 nutrient management plan as provided in section 459A.208.

5 ~~b. An engineering report, construction plans, and~~
6 specifications prepared by a ~~licensed~~ professional engineer or
7 the natural resources conservation service of the United States
8 department of agriculture ~~certifying.~~

9 (1) For an open feedlot operation, the professional
10 engineer must certify that the construction of the settled
11 open feedlot effluent basin or alternative technology system
12 complies with the construction design standards required in
13 this chapter.

14 (2) For an animal truck wash facility, the professional
15 engineer must certify that the construction of the animal
16 truck wash effluent basin complies with the construction
17 design standards required in this chapter. However, an animal
18 truck wash facility electing to use a formed animal truck wash
19 effluent basin, in lieu of an engineering report, may submit a
20 construction design statement that meets the requirements of
21 sections 459A.306 and 459A.307.

22 Sec. 12. Section 459A.205, subsection 4, unnumbered
23 paragraph 1, Code 2015, is amended to read as follows:

24 ~~An~~ For an open feedlot operation, ~~must be issued~~ a
25 construction permit must be issued prior to any of the
26 following:

27 Sec. 13. Section 459A.205, subsection 4, paragraph a, Code
28 2015, is amended to read as follows:

29 ~~a. The construction, including expansion, of a settled open~~
30 feedlot effluent basin or alternative technology system if the
31 open feedlot operation is required to be issued ~~an operating a~~
32 NPDES permit.

33 Sec. 14. Section 459A.205, subsection 4, paragraph b,
34 unnumbered paragraph 1, Code 2015, is amended to read as
35 follows:

1 ~~The~~ When the department has previously issued the open
2 feedlot operation a construction permit and any of the
3 following applies:

4 Sec. 15. Section 459A.205, Code 2015, is amended by adding
5 the following new subsection:

6 NEW SUBSECTION. 4A. For an animal truck wash facility,
7 a construction permit must be issued prior to any of the
8 following:

9 a. The construction, including expansion, of an animal truck
10 wash effluent basin.

11 b. When the department has previously issued the animal
12 truck wash facility a construction permit and the volume of
13 the animal truck wash effluent would be more than the volume
14 approved by the department in the previous construction permit.

15 c. (1) When the animal truck wash facility is part of a
16 confinement feeding operation, and all of the following apply:

17 (a) The department has issued a construction permit under
18 section 459.303 or a letter approving a construction design
19 statement in lieu of a construction permit as provided by rules
20 adopted by the commission under section 459.103.

21 (b) The animal truck wash effluent will be added to an
22 existing manure storage structure resulting in a total stored
23 volume greater than that approved in the construction permit or
24 the construction design statement approval letter.

25 (2) When the animal truck wash facility is part of an open
26 feedlot operation, and all of the following apply:

27 (a) The department has issued a construction permit under
28 this section or a NPDES permit under section 459A.401.

29 (b) The animal truck wash effluent will be added to an
30 existing settled open feedlot effluent basin resulting in
31 a total stored volume greater than that approved in the
32 construction permit or NPDES permit.

33 Sec. 16. Section 459A.205, subsection 6, unnumbered
34 paragraph 1, Code 2015, is amended to read as follows:

35 ~~The~~ For an open feedlot operation, the application for ~~the~~ a

1 construction permit shall include all of the following:

2 Sec. 17. Section 459A.205, subsection 6, paragraph f, Code
3 2015, is amended to read as follows:

4 *f.* An engineering report, construction plans, and
5 specifications prepared by a ~~licensed~~ professional engineer or
6 by the United States natural resources conservation service,
7 for the settled open feedlot operation effluent basin or
8 alternative technology system.

9 Sec. 18. Section 459A.205, subsection 6, paragraph h,
10 subparagraph (3), Code 2015, is amended to read as follows:

11 (3) A public water supply system as defined in section
12 455B.171 or a drinking water well which is located within a
13 distance from the open feedlot operation as prescribed by rules
14 adopted by the ~~department~~ commission.

15 Sec. 19. Section 459A.205, subsection 6, paragraph i,
16 subparagraphs (1) and (3), Code 2015, are amended to read as
17 follows:

18 (1) Information showing that the proposed open feedlot
19 operation meets criteria for siting as established by rules
20 adopted by the ~~department~~ commission. However, if the
21 site does not meet the criteria, the information shall show
22 substantially equivalent alternatives to meeting such criteria.

23 (3) A conceptual design of the proposed alternative
24 technology system, as developed by a ~~licensed~~ professional
25 engineer.

26 Sec. 20. Section 459A.205, Code 2015, is amended by adding
27 the following new subsection:

28 NEW SUBSECTION. 6A. For an animal truck wash facility, the
29 application for the construction permit shall include all of
30 the following:

31 *a.* The name of the owner of the animal truck wash facility
32 and the name of the animal truck wash facility, including a
33 mailing address and telephone number for the owner and the
34 animal truck wash facility.

35 *b.* The name of the contact person for the animal truck wash

1 facility, including the person's mailing address and telephone
2 number.

3 c. The location of the animal truck wash facility.

4 d. A statement providing that the application is for any of
5 the following:

6 (1) The construction or expansion of an animal truck wash
7 effluent basin for an existing animal truck wash facility which
8 is not expanding.

9 (2) The construction or expansion of an animal truck wash
10 effluent basin for an existing animal truck wash facility which
11 is expanding.

12 (3) The construction of an animal truck wash effluent basin
13 for a proposed new animal truck wash facility.

14 e. An engineering report, construction plans, and
15 specifications prepared by a professional engineer or by the
16 United States natural resources conservation service, for the
17 animal truck effluent basin.

18 (1) The engineering report must demonstrate that the
19 storage capacity of its animal truck wash effluent basin is
20 equal to or greater than the amount of effluent to be stored
21 for any six-month period, in addition to two feet of freeboard.

22 (2) If an animal truck wash effluent basin is to be
23 constructed on karst terrain, the engineering report must
24 establish that the construction complies with the requirements
25 of section 459A.404.

26 f. A soils and hydrogeologic report of the site, as required
27 in section 459A.206.

28 g. Information, including but not limited to maps, drawings,
29 and aerial photos that clearly show the location of the animal
30 truck wash facility and all animal truck wash effluent basins.

31 Sec. 21. Section 459A.205, subsection 7, paragraph a,
32 unnumbered paragraph 1, Code 2015, is amended to read as
33 follows:

34 Except as provided in paragraph "b", a construction permit
35 for an open feedlot operation or animal truck wash facility

1 expires as follows:

2 Sec. 22. Section 459A.205, subsection 8, Code 2015, is
3 amended to read as follows:

4 8. The department may suspend or revoke a construction
5 permit, modify the terms or conditions of a construction
6 permit, or disapprove a request to extend the time to begin
7 or complete construction as provided in this section, if it
8 determines that the operation of the open feedlot operation or
9 animal truck wash facility constitutes a clear, present, and
10 impending danger to public health or the environment.

11 Sec. 23. Section 459A.206, subsection 1, Code 2015, is
12 amended to read as follows:

13 1. A settled open feedlot effluent basin or an animal truck
14 wash effluent basin required to be constructed pursuant to a
15 construction permit issued pursuant to section 459A.205 shall
16 meet design standards as required by a soils and hydrogeologic
17 report.

18 Sec. 24. Section 459A.207, subsection 1, unnumbered
19 paragraph 1, Code 2015, is amended to read as follows:

20 The owner of an open feedlot operation who is issued a
21 construction permit for a settled open feedlot effluent basin
22 or the owner of an animal truck wash facility who is issued a
23 construction permit for an animal truck wash effluent basin as
24 provided in section 459A.205 ~~after July 1, 2005,~~ shall submit
25 to the department a construction certification from a ~~licensed~~
26 professional engineer certifying all of the following:

27 Sec. 25. Section 459A.207, subsection 1, paragraph b, Code
28 2015, is amended to read as follows:

29 *b.* The basin was inspected by the ~~licensed~~ professional
30 engineer after completion of construction and before
31 commencement of operation.

32 Sec. 26. Section 459A.208, subsections 1, 3, and 4, Code
33 2015, are amended to read as follows:

34 1. The following persons shall develop and implement a
35 nutrient management plan meeting the requirements of this

1 section:

2 a. The owner of an open feedlot operation which has an
3 animal unit capacity of one thousand animal units or more or
4 which is required to be issued an ~~operating~~ NPDES permit
5 ~~shall develop and implement a nutrient management plan meeting~~
6 ~~the requirements of this section.~~

7 b. The owner of an animal truck wash facility which has an
8 animal truck wash effluent basin.

9 3. a. A person shall not remove open feedlot effluent from
10 an open feedlot operation structure ~~which is part of an open~~
11 ~~feedlot operation~~ or animal truck wash effluent from an animal
12 truck wash effluent basin for which a nutrient management plan
13 is required under this section, unless the department approves
14 a nutrient management plan as required in this section. ~~The~~
15 ~~department~~

16 b. Notwithstanding paragraph "a", the commission may adopt
17 rules allowing a person to remove ~~open feedlot~~ effluent from an
18 open feedlot operation structure or animal truck wash effluent
19 basin until the nutrient management plan is approved or
20 disapproved by the department according to terms and conditions
21 required by rules adopted by the ~~department~~ commission.

22 4. The department shall not approve an application for a
23 permit to construct a settled open feedlot effluent basin or
24 animal truck wash effluent basin, unless the owner of the open
25 feedlot operation or animal truck wash facility, applying for
26 approval submits a nutrient management plan together with the
27 application for the construction permit as provided in section
28 459A.205. The owner of the open feedlot operation shall also
29 submit proof that the owner has published a notice for public
30 comment as provided in this section. The department shall
31 approve or disapprove the nutrient management plan as provided
32 in section 459A.201.

33 Sec. 27. Section 459A.208, subsection 5, unnumbered
34 paragraph 1, Code 2015, is amended to read as follows:

35 Prior For an animal feeding operation, prior to approving

1 or disapproving a nutrient management plan as required in this
2 section, the department may receive comments exclusively to
3 determine whether the nutrient management plan is submitted
4 according to procedures required by the department and that the
5 nutrient management plan complies with the provisions of this
6 chapter.

7 Sec. 28. Section 459A.208, subsections 6, 7, and 9, Code
8 2015, are amended to read as follows:

9 6. A nutrient management plan must be authenticated by the
10 owner of the open feedlot operation or the owner of the animal
11 truck wash facility as required by the department in accordance
12 with section 459A.201.

13 7. A nutrient management plan shall include all of the
14 following:

15 a. Restrictions on the application of open feedlot effluent
16 or animal truck wash effluent based on all of the following:

17 (1) Calculations necessary to determine the land area
18 required for the application of ~~open feedlot~~ the effluent from
19 ~~an open feedlot operation~~ based on nitrogen use levels in order
20 to obtain optimum crop yields according to a crop schedule
21 specified in the nutrient management plan, and according to
22 requirements adopted by the department.

23 (2) A phosphorus index established pursuant to section
24 459.312.

25 b. Information relating to the application of the ~~open~~
26 ~~feedlot~~ effluent, including all of the following:

27 (1) Nutrient ~~levels~~ concentrations of the ~~open feedlot~~
28 effluent.

29 (2) Application methods, the timing of the application, and
30 the location of the land where the application occurs.

31 c. If the application is on land other than land owned or
32 rented for crop production by the owner ~~of the open feedlot~~
33 ~~operation~~, the plan shall include a copy of each written
34 agreement executed by the owner ~~of the open feedlot operation~~
35 and the landowner or the person renting the land for crop

1 production where the ~~open feedlot~~ effluent may be applied.

2 *d.* An estimate of the ~~open feedlot~~ effluent volume or weight
3 produced by the open feedlot operation or animal truck wash
4 facility.

5 *e.* Information which shows all of the following:

6 (1) There is adequate storage for open feedlot effluent
7 or animal truck wash effluent, including procedures to ensure
8 proper operation and maintenance of ~~the storage structures an~~
9 open feedlot operation structure or animal truck wash effluent
10 basin.

11 (2) ~~The~~ For an animal feeding operation, all of the
12 following:

13 (a) The proper management of animal mortalities to ensure
14 that animals are not disposed of in an open feedlot operation
15 structure or a treatment system that is not specifically
16 designed to treat animal mortalities.

17 (b) Animals kept in the open feedlot operation do not have
18 direct contact with any waters of the United States.

19 (3) (a) Surface drainage prior to contact with an open
20 feedlot structure is diverted, as appropriate, from the open
21 feedlot operation.

22 (b) Surface drainage prior to contact with an animal truck
23 wash facility is diverted, as appropriate, from the animal
24 truck wash facility.

25 (4) ~~Animals kept in the open feedlot operation do not have~~
26 ~~direct contact with any waters of the United States.~~

27 (5) Chemicals or other contaminants handled on-site are
28 not disposed of in an open feedlot operation structure, an
29 animal truck wash facility, or a treatment system that is not
30 specifically designed to treat such chemicals or contaminants.

31 9. The owner of an open feedlot operation or animal truck
32 wash facility who is required to develop and implement a
33 nutrient management plan shall maintain a current nutrient
34 management plan and maintain records sufficient to demonstrate
35 compliance with the nutrient management plan.

1 Sec. 29. Section 459A.301, Code 2015, is amended to read as
2 follows:

3 **459A.301 Settled open feedlot effluent basins and animal**
4 **truck wash effluent basins — construction design standards —**
5 **rules.**

6 If the department requires that a settled open feedlot
7 effluent basin or animal truck wash effluent basin be
8 constructed according to construction design standards,
9 regardless of whether the department requires the owner
10 to be issued a construction permit under section 459A.205,
11 any construction design standards for the basin shall
12 be established by rules as provided in chapter 17A that
13 exclusively account for special design characteristics of open
14 feedlot operations and related basins or animal truck wash
15 facilities and related basins, including but not limited to
16 the dilute composition of settled ~~open feedlot~~ effluent as
17 collected and stored in the basins.

18 Sec. 30. Section 459A.302, unnumbered paragraph 1, Code
19 2015, is amended to read as follows:

20 A settled open feedlot effluent basin or an animal truck
21 wash effluent basin required to be constructed pursuant to a
22 construction permit issued pursuant to section 459A.205 shall
23 meet all of the following requirements:

24 Sec. 31. Section 459A.302, subsection 1, paragraph a,
25 unnumbered paragraph 1, Code 2015, is amended to read as
26 follows:

27 Prior to constructing a settled open feedlot effluent basin
28 or an animal truck wash effluent basin, the site for the basin
29 shall be investigated for a drainage tile line by the owner
30 of the open feedlot operation or animal truck wash facility.
31 The investigation shall be made by digging a core trench to
32 a depth of at least six feet deep from ground level at the
33 projected center of the berm of the basin. If a drainage tile
34 line is discovered, one of the following solutions shall be
35 implemented:

1 Sec. 32. Section 459A.302, subsections 2, 3, 4, and 5, Code
2 2015, are amended to read as follows:

3 2. *a.* The settled open feedlot effluent basin or an animal
4 truck wash effluent basin shall be constructed with a minimum
5 separation of two feet between the top of the liner of the
6 basin and the seasonal high-water table.

7 *b.* If a drainage tile line around the perimeter of the basin
8 is installed a minimum of two feet below the top of the basin
9 liner to artificially lower the seasonal high-water table, the
10 top of the basin's liner may be a maximum of four feet below
11 the seasonal high-water table. The seasonal high-water table
12 may be artificially lowered by gravity flow tile lines or other
13 similar system. However, the following shall apply:

14 (1) Except as provided in subparagraph (2), an open feedlot
15 operation or animal truck wash facility shall not use a
16 nongravity mechanical system that uses pumping equipment.

17 (2) If the open feedlot operation was constructed before
18 July 1, 2005, the operation may continue to use its existing
19 nongravity mechanical system that uses pumping equipment or
20 it may construct a new nongravity mechanical system that uses
21 pumping equipment. However, an open feedlot operation that
22 expands the area of its open feedlot on or after April 1, 2011,
23 shall not use a nongravity mechanical system that uses pumping
24 equipment.

25 3. Drainage tile lines may be installed to artificially
26 lower the seasonal high-water table at a settled open feedlot
27 effluent basin or animal truck wash effluent basin, if all of
28 the following conditions are satisfied:

29 *a.* A device to allow monitoring of the water in the drainage
30 tile lines and a device to allow shutoff of the flow in the
31 drainage tile lines are installed, if the drainage tile lines
32 do not have a surface outlet accessible on the property where
33 the ~~settled open feedlot effluent~~ basin is located.

34 *b.* Drainage tile lines are installed horizontally at least
35 twenty-five feet away from the ~~settled open feedlot effluent~~

1 basin. Drainage tile lines shall be placed in a vertical
2 trench and encased in granular material which extends upward to
3 the level of the seasonal high-water table.

4 4. A settled open feedlot effluent basin or animal truck
5 wash effluent basin shall be constructed with at least four
6 feet between the bottom of the basin and a bedrock formation.

7 5. A settled open feedlot effluent basin or animal truck
8 wash effluent basin constructed on a floodplain or within
9 a floodway of a river or stream shall comply with rules ~~of~~
10 adopted by the department commission.

11 Sec. 33. Section 459A.302, subsection 6, unnumbered
12 paragraph 1, Code 2015, is amended to read as follows:

13 The liner of a settled open feedlot effluent basin or
14 animal truck wash effluent basin shall comply with all of the
15 following:

16 Sec. 34. Section 459A.302, subsection 7, Code 2015, is
17 amended to read as follows:

18 7. The owner of an open feedlot operation using a settled
19 open feedlot effluent basin or animal truck wash facility
20 shall inspect the berms of the basin at least semiannually for
21 evidence of erosion. If the inspection reveals erosion which
22 may impact the basin's structural stability or the integrity of
23 the basin's liner, the owner shall repair the berms.

24 Sec. 35. Section 459A.303, subsection 2, Code 2015, is
25 amended to read as follows:

26 2. The ~~department~~ commission shall adopt rules establishing
27 requirements for the construction and operation of alternative
28 technology systems.

29 Sec. 36. Section 459A.401, subsection 2, Code 2015, is
30 amended by striking the subsection and inserting in lieu
31 thereof the following:

32 2. Notwithstanding subsection 1, an open feedlot operation
33 that is a concentrated animal feeding operation shall comply
34 with applicable NPDES permit requirements as provided in the
35 federal Water Pollution Control Act, pursuant to rules that

1 shall be adopted by the commission. Any rules adopted pursuant
2 to this subsection shall be no more stringent than requirements
3 under the federal Act.

4 Sec. 37. Section 459A.401, Code 2015, is amended by adding
5 the following new subsection:

6 NEW SUBSECTION. 2A. If the open feedlot operation is
7 designed, constructed, and operated in accordance with the
8 requirements of an open feedlot effluent control system as
9 provided in rules adopted by the commission, the operation
10 shall be deemed to be in compliance with this section, unless a
11 discharge from the operation causes a violation of state water
12 quality standards as provided in chapter 455B, division III.

13 Sec. 38. Section 459A.401, subsection 3, paragraph a, Code
14 2015, is amended to read as follows:

15 a. (1) The open feedlot operation shall not discharge
16 open feedlot effluent from an open feedlot operation structure
17 into any waters of the United States, unless the discharge is
18 pursuant to ~~an operating~~ a NPDES permit.

19 (2) The open feedlot operation shall not be required to be
20 issued ~~an operating~~ a NPDES permit if the operation does not
21 discharge open feedlot effluent into any waters of the United
22 States.

23 Sec. 39. NEW SECTION. **459A.404 Animal truck wash facility**
24 **— construction regulations.**

25 1. a. An animal truck wash effluent basin shall not
26 be constructed, including expanded, within one thousand
27 two hundred fifty feet from a residence not owned by the
28 titleholder of the animal truck wash facility, a commercial
29 enterprise, a bona fide religious institution, an educational
30 institution, or a public use area, as those terms are defined
31 in section 459.102, and as provided in rules adopted by the
32 commission pursuant to section 459.103, and as provided in
33 rules adopted by the commission pursuant to section 459A.104.

34 b. An animal truck wash effluent basin shall not be
35 constructed or expanded within one hundred feet from a public

1 thoroughfare as defined in section 459.102.

2 *c.* Paragraph "a" does not apply if a residence, educational
3 institution, commercial enterprise, or bona fide religious
4 institution was constructed or expanded, or if the boundaries
5 of the public use area were expanded, after the date that the
6 animal truck wash facility was established. The date the
7 animal truck wash facility was established is the date on which
8 the animal truck wash facility commenced operating. A change
9 in ownership or expansion of the animal truck wash facility
10 shall not change the established date of operation.

11 *d.* Paragraph "a" or "b" does not apply if the titleholder of
12 the land benefiting from the separation distance requirement,
13 including a person so authorized by the titleholder, executes
14 a written waiver with the titleholder of the land where the
15 animal truck wash effluent basin is located. The basin shall
16 be constructed or expanded under such terms and conditions that
17 the parties negotiate. The state or a political subdivision
18 constructing or maintaining the public thoroughfare benefiting
19 from the separation distance requirement may execute a written
20 waiver with the titleholder of the land where the basin
21 is located. The animal truck wash effluent basin shall be
22 constructed or expanded under such terms and conditions that
23 the parties negotiate.

24 *e.* An unformed animal truck wash effluent basin shall not be
25 constructed or expanded within the following minimum separation
26 distances from any of the following:

- 27 (1) One thousand feet from a public shallow well.
28 (2) Four hundred feet from a public deep well.
29 (3) Four hundred feet from a private well.

30 2. *a.* Any separation distance required for a confinement
31 feeding operation structure and a location or object specified
32 in section 459.310, subsection 1, shall also apply to an animal
33 truck wash effluent basin and that same location or object.

34 *b.* Any requirement, qualification, or exception that
35 applies to a separation distance required for a confinement

1 feeding operation structure and a location or object specified
2 in section 459.310, subsection 1, shall also apply to the
3 separation distance required for an animal truck wash effluent
4 basin and that same location or object.

5 3. An animal truck wash effluent basin shall not be
6 constructed, including expanded, on land that is part of a
7 one hundred year floodplain as designated by rules adopted
8 by the commission pursuant to section 459A.104. The rules
9 shall correspond to rules adopted pursuant to section 459.310,
10 subsection 2.

11 4. A person shall not construct or expand an unformed animal
12 truck wash effluent basin within an agricultural drainage well
13 area as provided in section 460.205.

14 5. A person shall not construct an unformed animal truck
15 wash effluent basin on karst terrain or on an area that drains
16 into a known sinkhole. However, a person may construct an
17 animal truck wash effluent basin if there is a twenty-five
18 foot vertical separation distance between the bottom of the
19 basin and underlying limestone, dolomite, or other soluble
20 rock as documented in the engineering report submitted to the
21 department pursuant to section 459A.205.

22 Sec. 40. Section 459A.410, Code 2015, is amended to read as
23 follows:

24 **459A.410 Effluent application requirements.**

25 1. Open feedlot effluent or animal truck wash effluent
26 shall be applied in a manner which does not cause surface water
27 or groundwater pollution. Application in accordance with
28 the provisions of state law, including this chapter, rules
29 adopted pursuant to the provisions of state law, including this
30 chapter, and guidelines adopted pursuant to this chapter, shall
31 be deemed as compliance with this section.

32 2. The commission shall adopt rules establishing
33 requirements for the application of animal truck wash effluent,
34 including minimum separation distances between locations
35 or objects identified in such rules, and requirements for

1 application rates.

2 Sec. 41. Section 459A.411, Code 2015, is amended to read as
3 follows:

4 **459A.411 Discontinuance of operations.**

5 The owner of an open feedlot operation or animal truck wash
6 facility who discontinues ~~the use of the~~ its operation shall
7 remove all ~~open feedlot~~ effluent from related open feedlot
8 operation structures or animal truck wash effluent basins used
9 to store ~~open feedlot~~ effluent, as soon as practical but not
10 later than six months following the date the operations of
11 the open feedlot operation or animal truck wash facility is
12 discontinued.

13 EXPLANATION

14 The inclusion of this explanation does not constitute agreement with
15 the explanation's substance by the members of the general assembly.

16 GENERAL. This bill amends the "Animal Agriculture
17 Compliance Act for Open Feedlot Operations" (Code chapter 459A)
18 which authorizes the department of natural resources (DNR)
19 to regulate open feedlot operations. Generally, the bill
20 provides for the regulation of an animal truck wash facility
21 (facility) which engages in washing certain trucks transporting
22 animals (cattle, swine, horses, sheep, chickens, turkeys,
23 or fish) and collecting and storing the resulting animal
24 effluent in an animal truck wash effluent basin (basin). The
25 bill's provisions regulating such facilities and the resulting
26 effluent are closely related to the regulation of settled open
27 feedlot effluent basins which are impoundments used to collect
28 and store effluent, including solids, and the application of
29 effluent from those operations.

30 DOCUMENTS. The bill requires the owner of a facility
31 to submit a number of different documents for departmental
32 approval, including an application for a permit and associated
33 statements required to construct a basin. These include a
34 nutrient management plan that addresses restrictions on the
35 land application of effluent; a soils and hydrogeologic report;

1 and a construction certification authenticated by a licensed
2 professional engineer (Code sections 459A.102, 459A.205, and
3 459A.206).

4 CONSTRUCTION STANDARDS. The bill establishes construction
5 design standards for basins, requires separation distances
6 between a basin and certain locations or objects, including
7 residences, commercial enterprises, bona fide religious
8 institutions, educational institutions, public use areas,
9 public thoroughfares, surface intakes of agricultural drainage
10 wells, wellheads, cisterns of agricultural drainage wells,
11 known sinkholes, lakes, rivers, reservoirs, creeks, streams,
12 ditches, and wells. The bill restricts basins from being
13 constructed on karst terrain based on requirements in Code
14 chapter 459 regulating confinement feeding operations (Code
15 section 459A.404). The bill also requires special provisions
16 for tile lines, and restricts construction within a distance
17 from bedrock and on floodplains (Code section 459A.302).

18 OPERATING PERMITS FOR OPEN FEEDLOTS. The bill eliminates
19 a provision requiring an open feedlot to operate pursuant to
20 an operating permit issued by the department (Code section
21 459A.401) so long as the operation obtains a so-called
22 NPDES permit under the federal national pollutant discharge
23 elimination system program.

24 STOCKPILING AND APPLICATION REQUIREMENTS. The bill places
25 restrictions upon the stockpiling of solids from effluent (Code
26 section 459A.403) and the land application of effluent. Such
27 application cannot cause surface water or groundwater pollution
28 (Code section 459A.410). The bill requires the department to
29 establish requirements for application of effluent including by
30 establishing separation distances required between the site of
31 application and locations and objects identified by the rules.

32 DISCONTINUANCE. The owner of a facility must remove
33 effluent after the operation of the facility is discontinued
34 (Code section 459A.411).

35 SMALL ANIMAL TRUCK WASH FACILITY — EXEMPTION. The bill

1 exempts a small animal truck wash facility from many of the
2 bill's requirements. A small animal truck wash facility is
3 an animal truck wash facility that satisfies two conditions:
4 (1) The facility and all single-unit trucks, truck-tractors,
5 semitrailers, or trailers washed at the facility must be owned
6 by the same person, and (2) the average total per day volume of
7 washwater used by the facility must not exceed 2,000 gallons
8 as calculated on a monthly basis. However, the bill provides
9 that the bill's provisions continue to apply to a small animal
10 truck wash facility in three instances. First, it applies
11 when the facility is part of a confinement feeding operation
12 required to be constructed under a permit or approval letter
13 issued by DNR, or when the facility is part of an open feedlot
14 operation required to be constructed under a construction
15 permit or operate under a NPDES permit issued by DNR, and the
16 total volume of stored effluent is greater than allowed under
17 the relevant permit or letter (Code section 459A.205). Second,
18 the bill's separation distance requirements continue to apply
19 (new Code section 459A.404). Finally, the general prohibition
20 against applying effluent in a manner that causes surface water
21 or groundwater pollution continues to apply (Code section
22 459A.410).

23 ENFORCEMENT. DNR and the attorney general are responsible
24 for enforcing the provisions of the bill (Code section
25 459A.501).

26 PENALTIES. A person who is in violation of the
27 prohibition would be subject to a civil penalty, that may be
28 administratively assessed by the department, in an amount of
29 not more than \$10,000 (Code sections 459A.502 and 455B.109), or
30 judicially assessed for an amount not more than \$5,000 per each
31 day of the violation (Code sections 459A.502 and 455B.191).
32 Collected moneys would be deposited into the watershed
33 improvement fund (Code sections 459A.502 and 466A.2).